

Introduced by Senator Hollingsworth

February 23, 2007

An act to amend Section 602.1 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as introduced, Hollingsworth. Business establishments: unlawful entry.

Existing law provides that any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave, is guilty of a misdemeanor.

This bill would also make it a misdemeanor to enter or remain unlawfully in or upon a business establishment open to the public after being requested to leave and after being served with a written warning or request prohibiting that person's presence on the property for a period of 6 months, by the owner or owner's agent or by a peace officer, as specified. Because the bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 602.1 of the Penal Code is amended to read:

602.1. (a) Any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine.

(b) Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or a supervisor of the public agency, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine.

(c) (1) *Any person who enters or remains unlawfully in or upon a business establishment open to the public after being requested to leave, pursuant to subdivision (a), and after being served with a written warning or request prohibiting that person's presence on the property for a period of six months, by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 30 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine.*

(2) *For purposes of this subdivision, a written warning or request shall contain, but is not limited to, all of the following information:*

(A) *A warning statement advising the person that the person's presence is prohibited on the property for a period of six months*

1 *from and including the date of the notice, and that a violation of*
2 *the warning will subject the person to arrest and prosecution for*
3 *trespassing pursuant to this subdivision.*

4 *(B) The legal name, any aliases, and a photograph or a physical*
5 *description, including, but not limited to, sex, race, height, weight,*
6 *hair color, eye color, or any other distinguishing characteristics,*
7 *of the person warned.*

8 *(C) The name of the person giving the warning along with the*
9 *date and time the warning was given and served on the person*
10 *warned.*

11 *(D) The signature of the person giving the warning, and the*
12 *signature of a witness or peace officer who was present when the*
13 *warning was given and served on the person warned.*

14 ~~(e)~~

15 *(d) This section shall not apply to any of the following persons:*

16 *(1) Any person engaged in lawful labor union activities that are*
17 *permitted to be carried out on the property by state or federal law.*

18 *(2) Any person on the premises who is engaging in activities*
19 *protected by the California Constitution or the United States*
20 *Constitution.*

21 ~~(e)~~

22 *(e) Nothing in this section shall be deemed to supersede the*
23 *application of any other law.*

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.